

FILED

8:18 am Jun 01 2018

**Clerk U.S. District Court
Northern District of Ohio
Cleveland**

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**LAUREN CARROLL and
ALLAN RICHLAND,**

Plaintiff,

vs.

SHUREE JEFFERSON,

Defendant.

CASE NO. 1:18 CV 1217

JUDGE DAN AARON POLSTER

**MEMORANDUM OF OPINION
AND ORDER**

Plaintiffs Lauren Carroll and Allan Richland filed this eviction action in the South Euclid Municipal Court. *Pro se* Defendant Shuree Jefferson removed the action to federal court citing the Uniform Commercial Code, 15 U.S.C. 1692, and Federal Civil Procedure Rule 60 as the basis for federal court jurisdiction.

A Defendant may remove “any civil action brought in a state court of which the district courts of the United States have original jurisdiction.” 28 U.S.C. § 1441(a). The Notice of Removal of a civil action or proceeding must be filed within thirty days after the receipt by the Defendant through service or otherwise of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based. 28 U.S.C. § 1446 (b). Only state court actions that originally could have been filed in federal court may be removed to federal court by a Defendant. *Caterpillar, Inc. v. Williams*,


482 U.S. 386, 392 (1987). When jurisdiction is based on the presence of a federal question, the federal question must be present on the face of the Plaintiff's Complaint." *Id.*; *Franchise Tax Bd. v. Constr. Laborers Vacation Trust*, 463 U.S. 1, 9-10 (1983). Consequently, a case may *not* be removed to federal court on the basis of a federal defense. *Caterpillar*, 482 U.S. at 393.

Plaintiffs' Complaint for eviction relies solely on state law for its only cause of action. The Defendant attempts to create federal question jurisdiction by citing to federal statutes in her Notice of Removal. This is not sufficient to create a basis for original federal court jurisdiction. This case was not properly removed.

CONCLUSION

Accordingly, this case is remanded to the South Euclid Municipal Court.

IT IS SO ORDERED.



DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE